

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

EUGENE OKECHUKWU AGINA,)	
)	
Petitioner)	
)	Civil Action No.
v.)	05cv11234-NMG
)	
MICHAEL CHERTOFF, SECRETARY)	
OF DEPARTMENT OF HOMELAND)	
SECURITY, ET AL.)	
)	
Respondents ¹)	

MOTION TO DISMISS

Respondent moves to dismiss this action pursuant to Fed. R. Civ. P. Rule 12(b)(6) for failure to state a claim upon which relief may be granted.

Respondent also files herewith its Memorandum of Law in Support of Motion to Dismiss.

¹ The responsive official of the Department of Homeland Security responsible for enforcement of petitioner's removal order in the instant action is Bruce Chadbourne, Field Office Director for Detention and Removal, Department of Homeland Security, Bureau of Immigration and Customs Enforcement ("ICE") in Boston, Massachusetts. See 28 U.S.C. § 517 (providing for the appearance of the Department of Justice "to attend to the interests of the United States in a suit pending in a court of the United States").

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: s/Frank Crowley
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CERTIFICATE OF SERVICE

I hereby certify that I caused a true copy of the above document to be served upon pro se petitioner by mail on August 15, 2005.

s/Frank Crowley
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